85-2018 (7)

Supreme Court, U.S.
FILED
JUN 9 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

ARTHUR KUNGLE, JR., Petitioner

v.

ST. JOHN'S COLLEGE, et al.

Respondents

ON WRIT OF CERIORARI TO THE COURT

OF APPEALS OF MARYLAND

APPENDIX TO PETITION FOR WRIT:

f. CONSTITUTIONAL PROVISIONS,

STATUTES, TREATIES AND RULES

ARTHUR KUNGLE JR
P. O. Box 365
Annapolis, Maryland
21404
(301) 263-9080
Pro se

6 pp

United States Constitution

ARTICLE VI.

Sec. 2. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme law of the Land;and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Amendments:

(Article I.)

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or the press; or the right of the people peaceable to

assemble, and to petition the Government for a redress of grievances.

(ARTICLE V.)

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

(ARTICLE IX.)

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

(ARTICLE X.)

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

(ARTICLE XIV.)

Section I. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United

States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Maryland Constitution

DECLARATION OF RIGHTS

We, the People of the State of Maryland, grateful to Almighty God for our civil and religious liberty, and taking into our serious consideration the best means of establishing a good Constitution in this State for the sure foundation and more permanent security thereof, declare:

Article 1.

That all Government of right originates from the People, is founded in compact only, and instituted solely for the good of the whole; and they have, at all times, the inalienable right to alter, reform or abolish their Form of Government in such manner as they may

deem expedient.

Article 2.

The Constitution of the United State, and the Laws made, or which shall be made, in pursuance thereof, and all Treaties made, or which shall be made under the authority of the United States, are, and shall be the Supreme Law of the State; and the Judges of this State, and all the People of this State, are, and shall be bound thereby; anything in the Constitution of Law of this State to the contrary notwithstanding.

Article 3.

The powers not delegated to the United States by the Constitution thereof, nor prohibited by it to the people thereof.

Article 5.

That the Inhabitants of Maryland

are entitled to the Common Law of England, and the trail by Jury, according to the course of that Law, and to the benefit of such of the English statutes as existed on the Fourth day of July, seventeen hundred and seventy-six; and which, by experience, have been found applicable to their local and other circumstances, and have been introduced, used and practiced by the Courts of Law or Equity; and also of all Acts of Assembly in force on the first day of June, eighteen hundred and sixty-seven; except such as may have since expired, or may be inconsistent with the provisions of this Constitution; subject, nevertheless, to the revision of, and amendment or repeal by, the Legislature of this State. And the

Inhabitants of Maryland are also entitled to all property derived to them from, or under the Charter granted by His Majesty Charles the First to Caecilius Calvert, Baron of Baltimore.

Article 6.

That all persons invested with Legislative or Executive powers of Government are the Trustees of the Public, and, as such, accountable for their conduct: Wherefore, whenever the ends of Government are perverted, and public liberty manifestly endangered, and all other means or redress are ineffectual, the People may, and of right ought, to reform the old, or establish a new Government; the doctrine of non-resistance against arbitrary power and oppression is absurd,

slavish and destructive of the good and happiness of mankind.

Article 19.

That every man, for any injury done to him in his person or property, ought to have remedy by the course of the Law of the Land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the Law of the Land.

Article 20.

That the trial of facts, where they arise, is one of the greatest securities of the lives, liberties and estate of the People.

Article 21.

That in all criminal prosecutions, every man hath a right to be informed of the accusation against him; to have a copy of the

Indictment, or charge, in due time (if required) to prepare for his defence; to be allowed counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses for and against him on oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought to be found guilty.

Article 24.

That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land.

Article 36.

That as it is the duty of every

man to worship God in such manner as he thinks most acceptable to Him, all persons are equally entitled to protection in their religious liberty; wherefore, no person ought by any law to be molested in his person or estate, on account of his religious persuasion, or profession, or for his religious practice, unless, under the color of religion, he shall disturb the good order, peace or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil or religious rights; not ought any person to be compelled to frequent, or maintain, or contribute, unless on contract, to maintain, any place of worship, or any ministry; nor shall any person, otherwise competent, be deemed incompetent as a

witness, or juror, on account of his religious belief; provided, he believes in the existence of God, and that under His dispensation such person will be held morally accountable for his acts, and be rewarded or punished therefor either in this world or in the world to come.

Nothing shall prohibit or require the making reference to belief in, reliance upon, or invoking the aid of God or a Supreme Being in any governmental of public document, proceeding, activity, ceremony, school, institution, or place.

Nothing in this article shall constitute an establishment of religion.

Article 40.

That the liberty of the press

ought to be inviolably preserved; that every citizen of the State ought to be allowed to speak, write and publish his sentiments on all subject, being responsible for the abuse of that privilege.

Article 45.

This enumeration of Rights shall not be construed to impair or deny others retained by the People.

Statutes: 1784 Md. L. Ch. 37

Charter of St. John's College

WHEREAS, institutions for the liberal education of youth in the principles of virtue, knowledge and useful literature are of the highest benefit to society, in order to train up and perpetuate a succession of able and honest men for discharging the various offices and duties of life, both civil and religious, with usefulness and reputation, and such institutions of learning have accordingly been promoted and encouraged by the wisest and best regulated States. And whereas, it appears to this General Assembly that many public spirited individuals, from an earnest desire to promote the founding a college or seminary of learning on the Western Shore of this

State have subscribed and procured subscriptions to a considerable amount, and there is reason to believe that very large additions will be obtained to the same throughout the different counties of the said Shore if they were made capable in law to receive and apply the same towards founding and carrying on a college or general seminary of learning with such salutary plan and with such legislative assistance and direction as the General Assembly might think of, and this General Assembly, highly approving those generous exertions of individuals, are desirous to embrace the present favorable occasion of peach and prosperity for making lasting provisions for the encouragement and advancement of all

useful knowledge and literature through every part of this State.

BE IT ENACTED:

II. That a college or general seminary of learning by the name of "St. John's College" be established on the said Western Shore upon the following fundamental and inviolable principles,; namely, first, the said college shall be founded and maintained forever upon a most liberal plan for the benefit of youth of every religious denomination, who shall be freely admitted to equal privileges and advantages of education and to all the literary honors of the college, according to their merit without requiring or enforcing any religious or civil test, or urging their attendance upon any particular religious worship or

service other than what they have been educated in or have the consent and approbation of their parents or guardians to attend; nor shall any preference be given in the choice of a Principal, Vice-Principal or other Professor. Master or Tutor in said college on account of his particular religious profession, having regard solely to his moral character and literary abilities and other necessary qualifications to fill the place for which he shall be chosen.

IV. That the governing body, or board of said College shall consist of not more than forty not less than thirteen Visitors and Governors, to be chosen and to hold office in such manner as the said Visitors and Governors may determine and prescribe by their fundamental ordinances;

provided, however, that the Governors of the States of Maryland and New Mexico shall act ex officio as two of the total number of Visitors and Governors of said college during their respective terms in said offices; and that the said Visitors and Governors and their successors duly chosen shall be and are hereby declared to be one community, corporation and body politic to have continuance forever by the name of

ST. JOHN'S COLLEGE

and by the same name they shall have perpetual succession.

XIV. That a majority of the said Visitors and Governors for the time being and duly assembled at any meeting upon due notice given to the whole body of Visitors and Governors shall have full power and authority

to make fundamental ordinances of the government of the said college and the instructions of youth as aforesaid, and by these ordinances to appoint such a number of their own bed not less than seven as they may think proper for transacting all general and necessary business of the said seminary and making temporary rules for the government of the same; and also by the said fundamental ordinances to delegate to the principal, vice-principal and professors such powers and authorities as they may think best for the standing government of the said seminary and of the execution of the ordinances and rules of the same, provided always that they be not repugnant to the form of government of any law of this State.

XVI. That the ordinances which shall be fro time to time made by the Visitors and Governors of the said college and their successors with an account of their other proceedings and of the management of the estate and moneys committed to their trust, shall when required be laid before the General Assembly for their inspection and examination, but in case at any time hereafter through oversight, or otherwise through misreprehension and mistaken construcitons of the powers, liberties and franchises in this Charter or Act of Incorporation granted or intended to be granted any ordinance should be made by the said corporation of Visitors and Governors or any matters done and transacted by the corporation contrary to the tenor

hereof, it is enacted that although such ordinances, acts and doings shall in themselves be null and void, yet they shall not, however, in any courts of law, or by the General Assembly, be deemed, taken interpreted or adjudged into an avoidance of forfeiture of this Charter and Act of Incorporation, but the same shall be and remain unhurt, inviolate and entire unto the said corporation of Visitors and Governors in perpetual succession, and all their acts conformable to the powers, true intent and meaning hereof shall be and remain in full force and validity, the nulhty and avoidance of such illegal acts to the contrary in any wise notwithstanding.

Policy on Bylaws

Article I

THE COLLEGE

(1) St. John's College is by its Charter a legal entity, carrying as its functions in Annapolis, Maryland, and in Santa Fe, New Mexico. Under the Charter of the College, all power, authority, and responsibility pertaining to the College are vested in the Visitors and Governors.

(2) The College consists of the following: The Board of Visitors and Governors, the Faculty, the Students, the Graduate Institute, the Alumni and the Staff, and other members who may be named from time to time by the Board of Visitors and Governors.

Md. Corps. & Ass'ns.

S 5-201. Application of Maryland General Corporation Law

The provisions of the Maryland General Corporation Law apply to nonstock corporations unless:

(1) The context of the provisions clearly requires otherwise; or

(2) Specific provisions of this subtitle or other subtitles governing specific classes of corporations provide otherwise. (An. Code 1957, art. 23, S 132; 1975, ch. 311, S 2; 1976, ch. 576, S 2.)

Md. Educ. Art.

Subtitle 1. School Security

§26-101. Disturbing activities at school or college; molesting or threatening students.

(a) Wilful disturbance of school activities prohibited. - A person may not willfully disturb or otherwise willfully prevent the orderly conduct of the activities, administration, or classes of any institution of elementary, secondary, or higher education.

(b) Molesting or threatening students or school personnel prohibited. - A person may not molest or threaten with bodily harm any student, employee, administrator, agent, or any other individual lawfully on the grounds or in the immediate vicinity of any institution

of elementary, secondary, or higher education.

(c) Injunction. - In addition to the penalties provided in this section or in Article 27, S 577A of the Code, on application by the governing board of any institution of elementary, secondary, or higher education, the circuit court of the county in which the institution is located may issue an injunction restraining any specific activities that violate this section.

(d) Criminal penalty. - Any person who violates any provision of subsection (a) or (b) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000, imprisonment not exceeding 6 months, or both. (An. Code 1957, art. 27, § 123A; art. 77,

§ 96; 1978, ch. 22, & 2.)

§ 26-102. Trespass on the grounds of a public institution of elementary, secondary, or higher education.

(a) Denial of access to school grounds. - The governing board, president, superintendent, or principal, or any public institution of elementary, secondary, or higher education, or a person designated in writing by the board or any of these persons, may deny access tot he buildings or grounds of the institution to any person who:

(1) Is not a bona fide, currently registered student, or staff or faculty member at the institution, and who does not have lawful business to pursue at the institution; or

(2) Is a bona fide, currently registered student at the institution and has been suspended or expelled from the institution, for the duration of the suspension or expulsion; or

(3) Acts in a manner that disrupts or disturbs the normal educational functions of the institution.

(b) Staff may demand identification. - Administrative personnel and authorized employees of any public institution of elementary, secondary, or higher education may demand identification and evidence of qualification from any person who desires to use or enter the premises of the institution.

(c) Agreement with law enforcement agencies. - The governing

board of any public institution of elementary, secondary, or higher education may enter into an agreement with appropriate law enforcement agencies to carry out the responsibilities of this section when:

(1) The institution is closed; or

(2) None of the persons designated in subsection (a) of this section are present in the buildings or on the grounds of the institution.

(d) Penalty. - A person is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1000, imprisonment not exceeding 6 months, or both if he:

(1) Trespasses on the grounds of any public institution of elementary, secondary, or higher

education;

(2) Fails or refuses to leave the grounds of any of these institutions after being requested to do so by an authorized employee of the institution;

(3) Willfully damages or defaces any building, furnishing, statue, monument, memorial, tree, shrub, grass, or flower on the grounds of any of these institutions. (An. Code 1957, art. 27, § 577B; 1978, ch. 22, § 2; 1980, ch. 66; 1981, ch. 467; 1983, ch. 442.)

Md. Am. Code Art.

12 § 577. Wanton trespass upon private land or vessel; legislation by Baltimore City prohibiting denial of accommodations, etc., by public places.

(a) (1) Any person or persons who remains upon, enters upon or crosses over the land, premises or private property, including boarding any boat or other marine vessel, of any person or persons in this State after having been duly notified by the owner or his agent not to do so is considered guilty of a misdemeanor, and on conviction shall be fined not more than $500.

(2) This section may not be construed to include within its provisions the entry upon or crossing

over any land when such entry or crossing is done under a bona fide claim or right of ownership of said land, it being the intention of this section only to prohibit any wanton trepass upon the private land of others.

American Declaration of Rights
and Duties of Man

Article I. Every Human Being has the right to life, liberty and the security of his person.

Article II. All persons are equal before the law and have the rights and duties established in this declaration, without distinction as to race, sex, language, creed or any other factor.

Article III. Every person has the right freely to profess a religious faith, and to manifest and practice it both in public and in private.

Article IV. Every person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever.

Article XVIII. Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights.

Article XXV. No person may be deprived of his liberty except in the cases and according to the procedures established by preexisting law.

No person may be deprived of liberty for nonfulfillment of obligations of a purely civil character.

Every individual who has been deprived of his liberty has the right to have the legality of his detention ascertained without delay by a court,

and the right to be released. He also has the right to humane treatment during the time he is in custody.

Article XXVI. Every person accused of an offense has the right to be given an impartial and public hearing, and to be tried by courts previously established in accordance with pre-existing laws, and not to receive cruel, infamous or unusual punishment.

Helsinki Accord VII

In the field of human rights and fundamental freedoms, the participating States will act in conformity with the purposes and principles of the Charter of States will act in conformity with the purposes and principles of the Charter of the United Nations and with the United Nations and with the Universal Declaration of Human Rights. They will also fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound.

Universal Declaration of Human Rights

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article I

All human beings are born free

and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

MAGNA CARTA

39 No free man shall be taken, imprisoned, disseised, outlawed, banished, or in any way destroyed, nor will We proceed against or prosecute him, except by the lawful judgment of his peers and by the law of the land.

40 To no one will We sell, to non will We deny or delay, right of justice.

Rule 28. Briefs

(a) Brief of the Appellant. The brief of the appellant shall contain under appropriate headings and in the order here indicated:

(1) A table of contents, with page references, and a table of cases (alphabetically arranged), statutes and other authorities cited, with references to the pages of the brief where they are cited.

(2) A statement of the issues presented for review.

(3) A statement of the case. The statement shall first indicate briefly the nature of the case, the course of the proceedings, and its disposition in the court below. There shall follow a statement of the facts relevant to the issues

presented for review, with appropriate references to the record (see subdivision (e)).

(4) An argument. The argument may be preceded by a summary. The argument shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and parts of the record relied on.

(5) A short conclusion stating the precise relief sought.

Federal Rules of Civil Procedure

Rule 8. General Rules of Pleading

(a) Claims for Relief. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction and the claim needs no new grounds of jurisdiction to support it, (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be

demanded.

8 (e) Pleading to be Concise and Direct; Consistency.

(1) Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleading or motions are required.

(2) A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count of defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one of more of the alternative statements. A party may also state as many separate claims or defenses as he has regardless of consistency

and whether based on legal, equitable, or maritime grounds. All statements shall be made subject to the obligations set forth in Rule 11.

8 (f) Construction of Pleadings. All pleadings shall be so construed as to do substantial justice.

Rule 10. Form of Pleadings

(b) Paragraphs; Separate Statements. All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense

whenever a separation facilitates the clear presentation of the matters set forth.

10 (c) Adoption by Reference; Exhibits. Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

12 (b) How Presented. Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion:

(1) lack of jurisdicition over the subject matter, (2) lack of jurisdicition over the person, (3) improper venue, (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state a claim upon which relief can be granted, (7) failure to join a party under Rule 19. A motion making any of these defense shall be made before pleading it a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, he may assert at the trail any defense in law or fact to that claim for relief. If, on a

motion asserting the defense numbered (6) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.

(e) Motion for More Definite Statement. If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, he may move a move definite statement before interposing his responsive pleading.

The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

(f) Motion to Strike. Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 20 days after the service of the pleading upon him or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent,

or scandalous matter.

12 (g) Consolidation of Defenses in Motion. A party who makes a motion under this rule may join with it any other motions herein provided for and with it any other motions herein provided for and then available to him. If a party makes a motion under this rule but omits therefrom any defense or objection then available to him which this rule permits to be raised by motion, he shall not thereafter make a motion based on the defense or objection so emitted, except a motion as provided in subdivision (h)(2) hereof on any of the grounds there stated.

41 (b) Involuntary Dismissal: Effect Thereof. For failure of the plaintiff to prosecute or to comply with these rules or any order of

court, a defendant may move for dismissal of an action or of any claim against him.

MARYLAND COURT OF APPEALS

Rule 831(c)(4) Statement of Facts. A clear concise statement of facts material to a determination of the questions prsented. If there is any dispute with regard to any of the facts asserted by the appellant, or a possibility of such a dispute, the appellant shall so state. Reference shall be made to the pages of the record or the transcript of the testimony as contained in the record supporting his assertions, or is such portions of the record are included in the printed extract pursuant to Rule 828 (Part of Record to be Printed--Printed Record Extract) such reference shall be to the pages of the printed extract.

Maryland Court of Special Appeals

Rule 1031

c. Contents of Appellant's Brief. The brief of the appellant shall contain in the order here indicated:

1. Tables of Contents and Citations.

A table of contents and a table of citations of cases, constitutional provisions, statutes, ordinances, rules and regulations, with cases alphabetically arranged. When Maryland cases are cited, the citation shall include a reference to the official Reports, if published.

2. Statement of the Case - Questions Presented.

A brief statement of the case together with a succinct statement of the questions presented separately numbered. The statement of the

questions presented shall indicate the legal propositions involved and the questions of fact at issue expressed in the terms and circumstances and the case without unnecessary detail.

3. Constitutional Provisions, Statutes, Ordinances, Rules and Regulations.

The citation and verbatim text of all pertinent constitutional provisions, statutes, ordinances, rules and regulations. If any are lengthy, their citation alone suffice at this point, but their pertinent text shall be set forth in an appendix.

4. Statement of Facts.

A clear concise statement of the facts material to a determination of the questions presented. If there is

any dispute with regard to any of the facts asserted by the appellant, or a possibility of such a dispute, the appellant shall so state. Reference shall be made to the pages of the record of the transcript of the testimony as contained in the record supporting his assertions.

5. Argument.

Argument in support of the position of the appellant.

Maryland Civil Rules of Procedure

Rule 2-303. Form of Pleadings

(a) Paragraphs, County, and Defenses. - All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings; and a paragraph may be referred to by number in all succeeding pleadings. Each cause of action shall be set forth in a separately numbered count. Each separate defense shall be set forth in a separately numbered defense.

(b) Contents. - Each averment of a pleading shall be simple concise, and direct. No technical forms of

pleadings are required. A pleading shall contain only such statements of fact as may be necessary to show the pleader's entitlement to relief or ground of defense. It shall no include argument, unnecessary recitals of law, evidence, of documents, or any immaterial, impertinent, or scandalous matter.

(c) Consistency. - A party may set forth two or more statements of a claim or defense alternatively or hypothetically. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as the party has,

regardless of consistency and whether based on legal or equitable grounds.

(d) Adoption by Reference. Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in another pleading or in any motion. A copy of any written instrument that is an exhibit to a pleading is a part thereof for all purposes.

(e) Construction of Pleadings. - All pleadings shall be so constructed as to do substantial justice.

Rule 2-305. Claims For Relief

A pleading that sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain a clear statement of the facts necessary to constitute a cause of

action and a demand for judgment for relief sought. Relief in the alternative or of several different types may be demanded.

Rule 2-322. Preliminary Motions

(a) Mandatory. - The following defenses shall be made by motion to dismiss filed before the answer, if an answer is required: (1) lack of jurisdiction over the person, (2) improper venue, (3) insufficiency of process, and (4) insufficiency of service of process. If not so made and the answer is filed, these defenses are waived.

(b) Permissive. - The following defenses may be made by motion to dismiss filed before the answer, if an answer is required: (1) lack of jurisdiction over the subject matter, (2) failure to state a claim upon

which relief can be granted, (3) failure to join a party under Rule 2-211, and (4) governmental immunity. If not so made, these defenses and objections may be made in the answer, or in any other appropriate manner after answer is filed. If, on a motion to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 2-501, and all parties shall be give reasonable opportunity to present all material made pertinent to such a motion by Rule 2-501.

(d) Motion for More Definite Statement. - If a pleading to which

an answer is permitted is so vague or ambiguous that a party cannot reasonably frame an answer, the party may move for a more definite statement before answering. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 15 days after entry of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

(e) Motion to Strike - On motion made by a party before responding to a pleading or, if no responsive pleading is required by these rules, on motion made by a party within 15 days after the service of the

pleading or on the court's own initiative at any time, the court may order any insufficient defense or any improper, immaterial, impertinent, or scandalous matter stricken from any pleading or may order any pleading that is late or otherwise not in compliance with these rules stricken in its entirety.

(f) Consolidation of Defenses in Motion. - A party who makes a motion under this Rule may join with it any other motions then available to the party. No defense or objection raised pursuant to this Rule is waived by being joined with one or more other such defenses or objections in a motion under this Rule. If a party makes a motion under this Rule but omits any defense or objection then available to the

party shall not thereafter make a motion based on the defenses or objections so omitted as provided in Rule 2-234.